



**Ashburnham Village Center Zoning District Study Committee Meeting  
Tuesday, October 29, 2008, 7:00 PM  
Lower Meeting Room, Town Hall**

**Members Present:** Joseph Daigle, Jonathan Dennehy, Diane Hill, Stan Herriott (Chair), Joseph Kalagher, John MacMillan, Elizabeth McLaughlin, and David Perry. **Members Absent:** Jim Whidden. **Staff Present:** Eric R. Smith, AICP, Town Planner (Clerk).

**I. Introduction: Call to Order**

Meeting was called to order at 7:00 p.m.

**II. Approval of September 9, 2008 Meeting Minutes**

Motion was made by John MacMillan to approve the September 9, 2008 meeting minutes. Seconded by Joe Daigle. Passed by a Vote of 6 to 0. There were no meeting minutes from the scheduled October 8, 2008 meeting due to a lack of quorum.

**III. Develop Appropriate Zoning Bylaw Amendments**

**A. Begin Committee Exercise of Identifying Schedule of Uses within the Residential Village, R-V, or Village Residential Zoning District” (By Right, Special Permit or Site Plan Review)**

The Chairman, Stan Harriott, turned to the Town Planner to begin discussion of this item. The Town Planner indicated he handed out originally to the Committee in the October 8, 2008 meeting packet the results from the Committee’s previous work on filling out uses in the proposed Village Center-Residential (VC-R) Zoning District. At the 9/9 meeting the Committee completed their work on adding the Schedule of Uses from Section 3.2 to the VC-R Zone. However, the Committee did not get a chance to review the *“Possible Additional Uses for Ashburnham Village Center (as suggested in the Massachusetts Smart Growth/Smart Energy Toolkit Model Village Center Zoning Bylaw)”* at that meeting. The Committee did direct the Town Planner to add the “Possible Additional Uses” to the Schedule of Use document. Thus, the Town Planner indicated tonight the Committee should review the document entitled *“Schedule of Uses Regulations – Proposed, based on review through the September 9, 2008 Village Center Zoning District Study Committee Meeting with the possible additional uses, from the Mass. Smart Growth/Smart Energy Model Village Center Zoning Bylaw.”*

**Residential**

The Town Planner noted that the existing Zoning Bylaw, Section 3.22(b), has provisions for “two (2) family or semi-detached dwelling.” The State Model Village Center Zoning Bylaw contains a use category of “two family homes.” Town Planner noted that the Committee had put “N” originally for the Village Center-Commercial Core (VC-C) under Section 3.22(b). But then for the Model Bylaw “two family homes” category, the Committee had recommended they be

allowed via “SP”. The Committee reviewed this matter and determined not to allow “two-family or semi-detached dwellings” in the VC-C, but they would be allowed by “SP” in the VC-R.

The Committee began a lengthy discussion on the multi-family-related uses that had been part of the additional suggested uses from the State Model Bylaw. The Town Planner noted that during the October 8<sup>th</sup> workshop meeting, Jonathan Dennehy noted definition of multi-family versus apartments, based on mortgage financing. Single-family through 4-family units are financed residentially. Units of five + families per building are mortgaged commercially.

The Town Planner had noted the Assessors Codes have their own set of definitions. The Town Planner handed out the Residential Property Type Classification Codes, which are issued by the Mass. Department of Revenue. Assessors Code 10 “Residences” goes up to three (3)-family. Then apartments, Assessors Code 11, are for four (4) units or greater.

Jonathan Dennehy indicated there is a significant difference between a triple-decker (three family) versus an apartment building. Joe Daigle noted that the Building Code changes at four dwelling units per building.

There were significant comments/questions raised by Committee members regarding condominiums. Would they be allowed or not in the Zoning Bylaw, based on breakdown of uses from the State Model Bylaw for multi-family and/or apartment? The Committee directed the Town Planner to ask the Building Inspector, Mike Gallant, about allowance of condos under Zoning. Mike Gallant has experience working with condos from his full-time position with the City of Fitchburg. The Committee would have to research the uses proposed under Section 3.22(o)-(r) further. The Town Planner would contact Town Counsel, if necessary, subject to authorization from the Town Administrator. The question to Town Counsel would be how to we zone for condos? Also, the Committee expressed interest in inviting the Building Inspector into a future meeting as part of an overall review of the Village Center Zoning changes recommended by the Committee.

Jonathan noted difference between “3-family triple decker” in one ownership versus “3-unit condo.” The Condo would be in separate ownership for each unit, have a unit plan, master deed and condominium association. Apartments – rental, difference is ownership of fee.

Joe Daigle asked if “Condos” would be allowed in any district or not. For example in the two residential district, R-A and R-B. The Lakeside Village OSRD off of Sherbert Road, zoned R-B, was approved by the Planning Board via an OSRD Special Permit with 22 units, 11 duplexes. It is being treated as a condominium development. Whitney Park Estates 40B development in South Ashburnham approved with 90+ condominium units. Joe Kalagher asked if owner-resident is part of the 40B definition. Committee also discussed new Condos versus Condo-conversion, especially for the Village Center.

#### Business

The Committee decided to not add a new category for “personal services”. Instead the word “personal” was recommended to be added to Section 3.24(b), so it would read “Craft, consumer, professional, *personal* or commercial service...” Personal Service definition would still be added to the Zoning Bylaw.

The Committee discussed definition of “restaurant” versus “taverns”.

The Committee decided to move the outdoor seating associated with restaurants from its own category to Section 3.24(e)(1), as a subcategory under Section 3.24(e).

The Town Planner reviewed the proposed “Pushcart food vendor” use, under Section 3.22(h). The original discussion of this use by the Committee was to have it be allowed by-right with a Building Inspector Site Plan Review. At the October 8<sup>th</sup> Workshop meeting, some of the attendees were wondering if they had proposed it to be allowed by Special Permit. The Town Planner noted that when the Committee first brought up this issue, noting Nolan as an example, the idea was to make it as least onerous as possible. However, in Eric’s previous research of a number of cities across the country, the Town could adopt either a set of siting and locational criteria for Pushcart businesses within the Zoning Bylaw or as a separate Rules and Regulation document. The Town Planner would hand out the examples he has (Portland, OR; Carbondale, IL; Riverside, CA) in the next meeting packet, so the Committee could review this matter further.

Also the proposed definition of Pushcarts was reviewed. The Town Planner noted that the proposed definition was based on the Riverside, CA example, which he recalled Jonathan Dennehy indicating he liked this definition. Committee members did propose to have “trailer” added after “cart” and before “or similar wheeled container...” Also add the word “self-propelled” before “vehicle”. The Town Planner asked Jonathan if he was aware if Vehicle was defined by the Commonwealth of Massachusetts. He indicated he was not sure. The Town Planner would check with the Mass. Registry of Motor Vehicles Web Site to see if there was such a definition. Otherwise he would check with Town Counsel. Committee members also discussed if an Ice Cream Truck would be allowed under Zoning or not.

Art Galleries, proposed as Section 3.24(x), were proposed by the Committee to be allowed in all Zoning Districts, except the LI-A, LI-B *and I* Zoning Districts. The Committee decided not to consider allowing “Artist/Live Work Space” in any zoning district, including the VC-C. The Committee felt individuals would be allowed such opportunity under 3.22(i), which includes the word artist in the use description.

Outdoor farmers markets would be added as a new Section 3.24(y). The Committee also discussed trying to permit farmstands. The Town Planner noted they are permitted under Section 3.23(c), though according to the Zoning Bylaw, a “major portion of which is grown or produced on the premises by a resident proprietor.” The Committee then indicated there are some existing farmstands operating that don’t meet that criteria and wondered if they had been permitted legally. The Committee wondered if they could add farmstands to this new section 3.24(y), so that farmstands selling goods not 50% or greater from their property could be legally allowed. Also wondered if there was a definition of what goods could be sold at a farmer’s market.

Joe Daigle noted that Templeton passed a new Farm Bylaw, designed to inform residents of farming uses. The Town Planner indicated he would research this new Bylaw further for the next meeting.

#### New Special Conditions for the Village Center

The Committee discussed the State Model Village Center Bylaw provisions that the Town Planner had inserted within the handout under a section entitled “Proposed new Special Conditions under Section 3 for the Village Center.” The first proposed the following provision: “one story buildings shall be prohibited in the Village Center Commercial Core Zoning District.” At the October 8<sup>th</sup> Workshop Meeting, Jonathan Dennehy expressed his opinion of not restricting private property owners from constructing one-story buildings. Also Joe Kalagher and Jonathan had different visions of the types of buildings that should be prohibited from building only one-

story buildings (residential versus commercial). The Town Planner explained this provision was likely added by the State in order to encourage construction of traditional building patterns within many Village Centers, which historically contained two and three story buildings. Also by allowing more than one-story buildings in the Village Center, there would be more opportunity for construction of residential units on the upper floors.

The Committee decided however, to remove this prohibition. The Committee would review the existing Center Village Design Guidelines (handed out by the Town Planner at the meeting). Joe Daigle noted that the slope of a structure, roof pitch at 10:1, was required by Deed for house lots he and his wife had sold off of Dunn Road. That roof pitch is designed for a colonial style look. Such specific guidelines could be made more explicit within the Village Center. Joe Daigle indicated he would get the deed restriction wording for the Dunn Road parcels.

**VI. Scheduling of Future Meeting(s), including Site Visit(s)**

The Town Planner checked with the ZBA Chairman, David Perry, and confirmed there was no ZBA Hearings schedules three (3) weeks from tonight, which would be Wednesday, November 19<sup>th</sup>. Diane Hill had requested to have the Village Center Zoning District Study Committee meet on Wednesdays. However, Stan Harriott, Chairman, noted that particular Wednesday was when his Monthly Light Department Commissioners Meeting was to be held and he wouldn't be able to attend. After some discussion, the Committee decided to try and alternate between Tuesday and Wednesdays for each meeting. Thus, Tuesday, November 18<sup>th</sup>, was scheduled for the next meeting of the VCZD Study Committee.

**VII. Adjournment**

Meeting was adjourned at 9:00p.m.

Meeting minutes submitted by Eric R. Smith, AICP, Town Planner